

AMENDED IN SENATE APRIL 6, 2010

SENATE BILL

No. 1124

Introduced by Senator Negrete McLeod

February 18, 2010

An act to amend Section 5919 of the Public Resources Code, relating to land conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1124, as amended, Negrete McLeod. Land conservation: California Wildlife, Coastal, and Park Land Conservation Act.

The California Wildlife, Coastal, and Park Land Conservation Act, an initiative measure approved by the voters in the June 7, 1988, statewide primary election, provided bond funds for wildlife, coastal, and parkland conservation. The initiative measure may be amended by a $\frac{2}{3}$ vote of the Legislature if the amendment is consistent with the purposes of the act. Existing law requires an applicant receiving state funds under the act to maintain any property acquired in perpetuity, as specified, and use the property only for the purposes stated in the act.

This bill would require a grantee, or its successors in interest, ~~to record a conservation easement at the time property is~~ *if the grantee or its successor in interest agree to place a conservation, agricultural, or open space easement on property* acquired, developed, rehabilitated, or restored with funds allocated pursuant to the act, *to record the easement on or before July 1, 2011, and would require the granting agency to approve the easement.* ~~With respect to previously acquired, developed, rehabilitated, or restored properties, the bill would require the recording of a grant easement on or before April 1, 2011.~~ The bill would require the conservation easement to, ~~among other things,~~ provide that the property is to be maintained and operated in perpetuity, only

for the purposes set forth in the act, and no other use, sale, or other disposition of the property shall be made except as authorized by specific act of the Legislature.

The bill would declare that this requirement is an amendment of the act within the meaning of Section 6 of the act and is consistent with the act.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5919 of the Public Resources Code is
2 amended to read:
3 5919. (a) (1) State funds authorized under Section 5907 shall
4 not be disbursed unless the applicant agrees to all of the following:
5 (A) To maintain and operate the property acquired, developed,
6 rehabilitated, or restored with the funds in perpetuity. With the
7 approval of the granting agency, the applicant or its successors in
8 interest in the property may transfer the responsibility to maintain
9 and operate the property in accordance with this section.
10 (B) To use the property only for the purposes of this division
11 and to make no other use, sale, or other disposition of the property
12 except as authorized by specific act of the Legislature.
13 (2) An applicant for a grant pursuant to paragraph (3) of
14 subdivision (b), and subdivisions (c), (d), and (e), of Section 5907
15 shall submit an application to the administering agency for grant
16 approval. Each application shall include in writing the agreements
17 specified in paragraph (1).
18 (3) The agreements specified in paragraph (1) shall not prevent
19 the transfer of property acquired, developed, rehabilitated, or
20 restored with funds authorized pursuant to Section 5907 from the
21 applicant to a public agency, provided the successor public agency
22 assumes the obligations imposed by those agreements.
23 (b) (1) If the use of the property acquired through grants
24 pursuant to this division is changed to one other than permitted
25 under the category from which the funds were appropriated, or the
26 property is sold or otherwise disposed of, an amount equal to the
27 (A) amount of the grant, (B) the fair market value of the real
28 property, or (C) the proceeds from the portion thereof, acquired,
29 developed, rehabilitated, or restored with the grant shall be used

1 by the grantee, subject to subdivision (a), for a purpose authorized
2 in that category or shall be reimbursed to the fund and be available
3 for appropriation only for a use authorized in that category.

4 (2) If the property sold or otherwise disposed of is less than the
5 entire interest in the property originally acquired, developed,
6 rehabilitated, or restored with the grant, an amount equal to the
7 proceeds or the fair market value of the property interest sold or
8 otherwise disposed of, whichever is greater, shall be used by the
9 grantee, subject to subdivision (a) of this section, for a purpose
10 authorized in that category or shall be reimbursed to the fund and
11 be available for appropriation only for a use authorized in that
12 category.

13 ~~To implement the~~ *If, in furtherance of the intent of, and any*
14 ~~agreements made pursuant to paragraph (1) of subdivision (a), the~~
15 ~~grantee or its successors in interest shall record, or shall require~~
16 ~~the recording of, a conservation easement committed through~~
17 ~~resolution, contract, or other instrument to place a conservation,~~
18 ~~agricultural, or open space easement on the property acquired,~~
19 ~~developed, rehabilitated, or restored with the state funds authorized~~
20 ~~under paragraph (3) of subdivision (b) of Section 5907. The~~
21 ~~conservation easement, the easement shall be approved by the~~
22 ~~granting agency and shall be recorded in accordance with Section~~
23 ~~815.5 of the Civil Code at the time that the property is acquired,~~
24 ~~developed, rehabilitated, or restored and, in the case of properties~~
25 ~~previously acquired, developed, rehabilitated, or restored with the~~
26 ~~funds authorized under Section 5907, on or before April July 1,~~
27 ~~2011. The conservation easement shall provide both of the~~
28 ~~following:~~

29 ~~(1) That that the real property will be maintained and operated~~
30 ~~in perpetuity consistent with the requirements of Chapter 4~~
31 ~~(commencing with Section 815) of Division 2 of Part 2 of Title 2~~
32 ~~of the Civil Code, only for the purposes set forth in this division,~~
33 ~~and no other use, sale, or other disposition of the real property~~
34 ~~shall be made except as authorized by specific act of the~~
35 ~~Legislature.~~

36 ~~(2) That the grantee, a subsequent transferee or assignee of the~~
37 ~~grantee, the administering agency, the granting agency, the state,~~
38 ~~and the holder of the conservation easement shall have standing~~
39 ~~as interested parties and as third-party beneficiaries to enforce the~~
40 ~~terms of the easement and to seek the appropriate relief for either~~

1 ~~actual or threatened violations of the terms of the easement,~~
2 ~~including injunctive relief, specific performance of the terms of~~
3 ~~the easement, and all of the rights and remedies set forth in Chapter~~
4 ~~5 (commencing with Section 815) of Title 2 of Part 2 of Division~~
5 ~~2 of the Civil Code.~~

6 SEC. 2. Section 1 of this act is an amendment to the California
7 Wildlife, Coastal, and Park Land Conservation Act (Division 5.8
8 (commencing with Section 5900) of the Public Resources Code)
9 within the meaning of Section 6 of that act, and is consistent with
10 the purpose of that act.

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